

May 11 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 10-0216

GENIE LAND COMPANY, a Montana corporation;
CHARLES KELLY KLUVER and KARSON
KLUVER,

Petitioners,

v.

MONTANA SIXTEENTH JUDICIAL DISTRICT
COURT, ROSEBUD COUNTY, The HONORABLE
GARY L. DAY,

Respondent.

ORDER

FILED

MAY 11 2010

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CLERK OF THE SUPREME COURT
STATE OF MONTANA

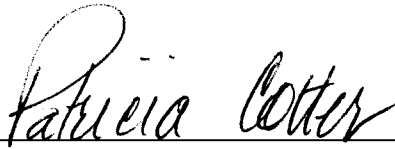
Plaintiffs and Petitioners Genie Land Company, Charles Kelly Kluver, and Karson Kluver (Petitioners) have filed a Petition for Writ of Supervisory Control. They seek this Court's intervention in their litigation over the meaning and effect of a mineral reservation which allows strip-mining on their property. They contend that the District Court's interpretation of the mineral reservation and its resulting dismissal on summary judgment of their trespass claim has significant constitutional implications, and further that supervisory control is appropriate because the continuing trespass by Western Energy Company (WECO) has ongoing and serious economic and environmental consequences. The Petitioners seek a determination by this Court that the entry and mining on their property by WECO without payment therefore constitutes a trespass, or in the alternative, a determination that the order of summary judgment be reversed and a trial held on the merits of their trespass claim.

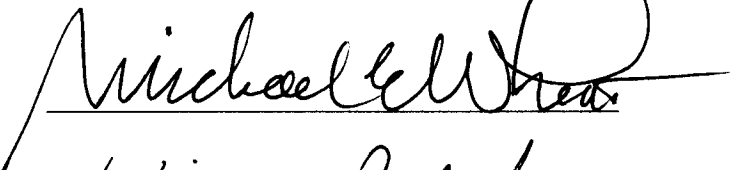
We deem it appropriate to receive a summary response to the Petition for Writ of Supervisory control, pursuant to M. R. App. P. 14(7)(a). Accordingly,

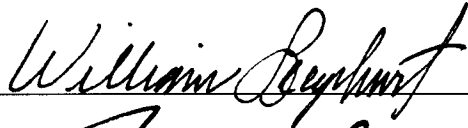
IT IS HEREBY ORDERED that the Montana Sixteenth Judicial District Court, or its designee WECO, shall file a summary response to the Petition for Writ of Supervisory Control within 20 days of the date of this Order.

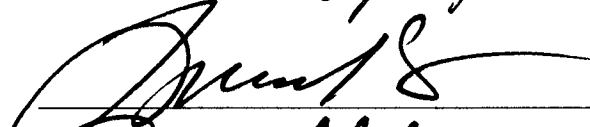
The Clerk of this Court is directed to serve a copy of this Order upon all counsel of record and upon the Honorable Gary L. Day, Montana Sixteenth Judicial District Court, under cause number DV 07-26.

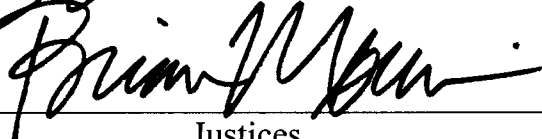
DATED this 11th day of May, 2010.











Justices